

**NEW MEXICO MORTGAGE FINANCE AUTHORITY HOUSING TAX CREDIT PROGRAM
2004 PLACEMENT IN SERVICE AND FINAL ALLOCATION
APPLICATION INSTRUCTIONS**

General: The final stage of the MFA Tax Credit allocation process involves submission of a Placement in Service Application and Final Allocation Application. The Placement in Service process is mandatory prior to year end, and the Final Allocation Application may be undertaken simultaneously or later. However, until the Final Allocation Application is processed, MFA cannot issue the IRS Form 8609 needed for the investor to claim Tax Credits. This package contains the documentation required by MFA to verify that a project was placed in service by the required date, and to determine a project's eligibility for a Final Allocation.

Projects Affected: All projects with Year 2002 Carryover Allocations must be placed in service before December 31, 2004 and must at least submit a Placement in Service application by November 15th, 2004. Projects that have a Year 2003 Carryover Allocation or a Year 2004 Reservation and are being placed in service before December 31, 2004 must also submit these applications.

Requirements: To qualify for a Final Allocation or to document that a project with a 2002 Carryover Allocation was Placed in Service, the following requirements must be met and evidence submitted to MFA no later than 5:00 p.m. MST, November 15, 2004:

1. All buildings of the project must have received a Certificate of Occupancy in 2004 or earlier; and
2. If a Project is Placed in Service but is not ready to request 8609's, all items on the "Placed in Service" section of the checklist must be delivered; or
3. If a Project is Placed in Service and ready to request 8609's, all items listed in both the Placed in Service and Final Allocation sections of the Checklist must be delivered.

Location for Delivery: The Applications must be submitted to MFA at the following address:

New Mexico Mortgage Finance Authority
344 Fourth Street SW
Albuquerque, New Mexico 87102

Attention: Housing Development/Housing Tax Credit Final Allocation

Attached Materials: Enclosed are checklists, forms and sample documents for some of the materials that must be submitted to MFA for final processing. A sample form of Land Use Restriction Agreement is included for your information only. Prior to the Application Deadline, MFA staff will complete this document and return it for your signature. The recorded LURA must be returned to MFA no later than December 31, 2004.

Processing Steps for Placement in Service and Final Allocation:

1. MFA prepares and delivers the Land Use Restriction Agreement ("LURA");
2. **November 15th**, Applicant submits Placement in Service or Final Allocation Application to MFA;
3. Owner executes LURA, records in appropriate county, and delivers the same to MFA prior to December 31, 2004.
4. MFA reviews Applications for completeness, underwrites project to ascertain financial viability, and recalculates the credit amount for Final Allocations;

Further Information: Contact Linda Bridge (505) 767-2262 or Iris Encinias at (505) 767-2233.

**HOUSING TAX CREDIT PROGRAM
PLACEMENT IN SERVICE AND FINAL ALLOCATION CHECKLIST**

PROJECT NUMBER: _____ **YEAR CARRYOVER RECEIVED:** _____

PROJECT NAME: _____

PROJECT OWNER: _____

CONTACT NAME: _____ **PHONE NUMBER:** _____

Part I: Placement in Service Processing

- ___ (1) On the 2004 MFA provided "Development Project Application" complete or update Sections II, III, IV and the signature portion of page 7.
- ___ (2A) New Construction Projects: Certificate of Occupancy for each building in the project; or
- ___ (2B) Rehabilitation Projects: Certificate of Completion, and, if acquisition credits are involved, evidence of the date the project was placed in service for acquisition purposes;
- ___ (3) Photos of each of the completed building(s) identified by address and BIN;
- ___ (4) A completed *Project Ownership Profile*;
- ___ (5) A completed Form 8609 Certification (original signature) (form attached);
- ___ (6) A completed Consent and Agreement to Recording of Land Use Restriction Agreement from **every lien holder** (original signature);

Part II: Additional Requirements for Final Allocation Application

(These are in addition to items #2 – #6 above.)

- ___ (7) Completed, and fully executed (with authorized original signature) Development Project Application for Final Allocation with schedules (A-1, B, C, and F) indicating (by an X in the left margin next to the item) all changes that have occurred or are being proposed subsequent to the time of the last application. All changes are subject to approval by MFA;
- ___ (8) A completed and fully executed Schedule "M" Addendum for Final Allocation;

- ___ (9) Written certification from the equity investor of a) total gross funds raised (or to be raised) from sale of the tax credits, b) itemization of all costs associated with the syndication, c) total equity payment to the partnership, d) pay-in schedule and relevant benchmarks, e) amount of tax credit expected, and f) gross price paid per dollar of tax credit;
- ___ (10) Project owner's certification, on *Final Cost Certification, MFA Form A*, of actual total project costs and eligible basis incurred, signed (original signatures) and attested (form attached);
- ___ (11) Completed Accountant's *Independent Auditor's Report, MFA Form B*, by independent tax accountant with correct Federal Tax Identification Number (form attached);
- ___ (12) Completed *Costs Incurred by Building, MFA Form C*, showing costs incurred separately for **each** building (form attached);
- ___ (13) Completed Owner's Attorney's Opinion; by independent tax attorney (original signature) (sample attached)¹;
- ___ (14) Completed "As Built" Architect Certification (original signature) (form attached)¹;
- ___ (15) Updated cash flow analysis (15-year pro forma);
- ___ (16) Complete (with all exhibits attached) copy of the executed partnership or operating agreement;
- ___ (17) Compliance Training Certificate for both owner and management company;
- ___ (18) Certification identifying all federal, state, and local funds which apply to the project, including source, type (whether it is a loan, grant, rent subsidy, etc.), terms and amount; if applicable;
- ___ (19) Copy of the signed cost certifications submitted to FHA, lenders, or RD (FmHA), as applicable; and
- ___ (20) Check payable to MFA (with tax credit project number and "HTC Compliance Fee") noted on check, in the amount of the total number of set aside units multiplied by 35, for the first year's compliance monitoring fee.
- ___ (21) Copy of the Recorded Land Use Restriction Agreement (LURA) (Only if the project was previously placed in service.)

¹ Please note that forms of Independent Auditor's Report for Final Allocation and Owners' Attorney's Opinion are provided. These have been developed with the help of qualified professionals in each field. The form of Independent Auditor's Report is optional, the form of Owner's Attorney Opinion is required. If the MFA form of Independent Auditor's Report is not used, the Owner and CPA are solely responsible for their format meeting the requirements of IRC, Section 42, as amended and all other applicable laws, rules, and regulations. MFA will not make this determination. In addition, the form of "As-Built" Certification is required, without modification.

CONDITIONS TO ISSUANCE OF IRS FORM 8609

The land use restriction agreement must be recorded in the year the project is placed in service. A copy of the completed land use restriction agreement will be sent to the owner for filing. However, the 8609(s) will not be issued by MFA until the following conditions have been met:

1. Each building in the project is a qualified low-income building;
2. The owner and the project are in compliance with the terms of the land use restriction agreement;
3. The owner has provided, on MFA forms, a completed Final Allocation Application including, but not limited to, a certification of project costs and eligible basis of the project and of each building;
4. The owner has provided a copy of the executed partnership or operating agreement;
5. The owner has paid the first year compliance monitoring fee;
6. The owner's representative and the management agent's representative have successfully completed a compliance training session conducted or approved by MFA;
7. MFA has completed a physical inspection of the property; and
8. MFA has made its final determination of the credit amount and its final determination pursuant to section 42(m)(2) of the code.